

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION**

**EARL PARRIS, JR., *et al.*,**

**Plaintiffs,**

**v.**

**3M COMPANY, *et al.*,**

**Defendants.**

**Civil Action No.: 4:21-cv-40-TWT**

**DAIKIN AMERICA, INC.’S ANSWER TO  
FIRST AMENDED COMPLAINT**

Daikin America, Inc. (“DAI”) files this Answer to Plaintiffs’ First Amended Complaint (“Complaint”). DAI denies each allegation in the Complaint except those expressly admitted below. This Answer is based upon DAI’s investigation to date, and DAI reserves the right to amend this Answer if and when new information is learned.

**STATEMENT OF THE CASE**

1. This paragraph does not appear to contain allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI and denies that Plaintiffs are entitled to any relief from DAI. DAI lacks knowledge

or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

2. This paragraph does not appear to contain allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

3. This paragraph does not appear to contain allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of any allegations in this paragraph directed towards others and therefore denies those allegations.

4. This paragraph does not appear to contain allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

5. DAI admits it has sold Mt. Vernon Mills, Inc. (“Mt. Vernon”) products to assist with repellency and resistance on fabric. DAI denies any other allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

6. DAI admits it has sold Mt. Vernon Mills, Inc. (“Mt. Vernon”) products known as fluorinated polymers to assist with repellency and resistance on fabric. DAI denies all other allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

7. DAI denies all allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

#### **JURISDICTION AND VENUE**

8. This paragraph sets forth legal conclusions that do not require a response. This paragraph also does not appear to apply to DAI. To the extent a

response is required, DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies those allegations.

9. This paragraph sets forth legal conclusions that do not require a response. This paragraph also does not appear to apply to DAI. To the extent a response is required, DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies those allegations.

10. This paragraph sets forth legal conclusions that do not require a response. This paragraph also does not appear to apply to DAI. To the extent this paragraph or the exhibits referenced therein contain allegations against DAI, they are denied. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

11. This paragraph sets forth legal conclusions that do not require a response. This paragraph also does not appear to apply to DAI. To the extent this paragraph contains allegations against DAI, they are denied. DAI lacks knowledge

or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

12. This paragraph sets forth legal conclusions that do not require a response. This paragraph also does not appear to apply to DAI. To the extent this paragraph or the exhibits referenced therein contain allegations against DAI, they are denied. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

13. This paragraph sets forth legal conclusions that do not require a response. This paragraph also does not appear to apply to DAI. To the extent this paragraph contains allegations against DAI, they are denied. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

14. This paragraph sets forth legal conclusions that do not require a response. This paragraph also does not appear to apply to DAI. To the extent this paragraph contains allegations against DAI, they are denied. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

15. This paragraph does not require a response.

16. This paragraph sets forth legal conclusions that do not require a response. To the extent this paragraph contains allegations against DAI, they are denied. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

17. This paragraph sets forth legal conclusions that do not require a response. To the extent this paragraph contains allegations against DAI, they are denied. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

18. This paragraph sets forth legal conclusions that do not require a response. To the extent this paragraph contains allegations against DAI, they are denied. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

19. This paragraph sets forth legal conclusions that do not require a response. To the extent this paragraph contains allegations against DAI, they are

denied. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

20. This paragraph sets forth legal conclusions that do not require a response. To the extent this paragraph contains allegations against DAI, they are denied. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

### **PARTIES**

21. This paragraph does not appear to contain allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

22. This paragraph sets forth a legal conclusion that does not require a response.

23. This paragraph sets forth a legal conclusion that does not require a response.

24. This paragraph does not appear to contain allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

25. This paragraph does not appear to contain allegations against DAI and does not require a response from DAI.

26. This paragraph does not appear to contain allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

27. This paragraph sets forth legal conclusions that do not require a response.

28. This paragraph sets forth legal conclusions that do not require a response.

29. This paragraph does not appear to contain allegations against DAI and does not require a response from DAI.

30. DAI admits only that DAI is a Delaware corporation that has conducted business in this District and has sold products known as fluorinated polymers to Mt. Vernon. DAI otherwise denies the allegations of this paragraph.

31. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies those allegations.

32. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies those allegations.

### **FACTUAL ALLEGATIONS**

33. DAI admits it has sold Mt. Vernon Mills, Inc. (“Mt. Vernon”) products known as fluorinated polymers to assist with repellency and resistance on fabric. DAI denies all other allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth

of the allegations in this paragraph directed towards others and therefore denies those allegations.

34. This paragraph does not appear to contain allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

35. This paragraph does not appear to contain allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

36. This paragraph does not appear to contain allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

37. This paragraph does not appear to contain allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

38. DAI admits that PFAS are man-made substances and that science has shown certain PFAS such as PFOA and PFOS are persistent in the environment. DAI further admits that certain PFAS have a wide variety of useful industrial, commercial, and consumer applications. DAI denies the remaining allegations of this paragraph as phrased. This paragraph does not appear to contain allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI.

39. DAI admits that science has shown PFOA and PFOS are persistent in the environment. DAI denies the remaining allegations of this paragraph as phrased. This paragraph does not appear to contain allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI.

40. DAI admits that science has shown PFOA and PFOS are persistent in the environment. DAI denies the remaining allegations of this paragraph as phrased.

This paragraph does not appear to contain allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI.

41. Denied.

42. DAI admits that the C8 Science Panel issued certain findings, but DAI disputes those findings and denies that this paragraph accurately or completely states the C8 Science Panel's findings. DAI denies the remaining allegations of this paragraph.

43. DAI admits that the C8 Science Panel issued certain findings, but DAI disputes those findings and denies that this paragraph accurately or completely states the C8 Science Panel's findings. DAI denies the remaining allegations of this paragraph.

44. DAI denies the allegations in this paragraph as phrased.

45. Denied as phrased.

46. DAI admits that, in 2016, EPA issued a "Drinking Water Health Advisory" of 70 parts per trillion for combined concentration of PFOA and PFOS. DAI lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in this paragraph and therefore denies those allegations.

47. DAI admits that EPA cited studies when it issued the 2016 Drinking Water Health Advisory. DAI disputes any findings referenced in this paragraph and further denies this paragraph accurately or completely reflects the findings of any such studies. DAI denies the remaining allegations of this paragraph.

48. DAI admits EPA issued a Drinking Water Advisory in 2016 and made certain statements in support thereof. DAI denies this paragraph accurately or completely reflects the statements in the referenced documents and denies the remaining allegations in this paragraph.

49. DAI admits ATSDR issued the referenced report but denies this paragraph accurately or completely reflects the statements in the related document. DAI denies the remaining allegations in this paragraph.

50. DAI admits ATSDR issued the referenced report but denies this paragraph accurately or completely reflects the statements in the related document. DAI denies the remaining allegations in this paragraph.

51. DAI admits only that certain states have recommended or adopted regulatory levels for PFOA and/or PFOS in drinking water lower than the 2016 EPA Drinking Water Health Advisory. DAI lacks knowledge or information sufficient to

form a belief about the truth of the remaining allegations in this paragraph and therefore denies those allegations.

52. DAI denies that this paragraph accurately or completely reflects the statements in any studies and otherwise denies the allegations.

53. This paragraph does not appear to require a response from DAI and instead purports to state a conclusion of law. DAI denies any allegations in this paragraph to the extent any are directed at DAI.

54. This paragraph does not appear to contain allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

55. This paragraph does not appear to contain allegations against DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations. DAI denies any allegations directed at DAI.

56. This paragraph does not appear to contain allegations against DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations. DAI denies any allegations directed at DAI.

57. This paragraph does not appear to contain allegations against DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations. DAI denies any allegations directed at DAI.

58. This paragraph does not appear to contain allegations against DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations. DAI denies any allegations directed at DAI.

59. This paragraph does not appear to contain allegations against DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations. DAI denies any allegations directed at DAI.

60. This paragraph does not appear to contain allegations against DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the

allegations in this paragraph directed towards others and therefore denies those allegations. DAI denies any allegations directed at DAI.

61. DAI denies any allegations directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

62. This paragraph does not contain allegations against DAI and does not require a response from DAI.

63. This paragraph does not appear to contain allegations against DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations. DAI denies any allegations directed at DAI.

64. This paragraph does not appear to contain allegations against DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations. DAI denies any allegations directed at DAI.

65. This paragraph does not appear to contain allegations against DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the

allegations in this paragraph directed towards others and therefore denies those allegations. DAI denies any allegations directed at DAI.

66. This paragraph does not appear to contain allegations against DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations. DAI denies any allegations directed at DAI.

67. This paragraph does not appear to contain allegations against DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations. DAI denies any allegations directed at DAI.

68. This paragraph does not appear to contain allegations against DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations. DAI denies any allegations directed at DAI.

69. On information and belief, DAI admits 3M announced in 2000 that 3M was phasing out of using PFOS (a substance DAI never manufactured or used) to manufacture 3M's Scotchguard products. DAI also admits, on information and belief, that 3M phased out of manufacturing PFOA sometime in the years thereafter.

DAI admits that in the 2000s, DAI worked to identify shorter-chain alternatives.

DAI denies the remaining allegations of this paragraph directed towards DAI.

70. This paragraph does not appear to contain allegations against DAI.

DAI denies any allegations in this paragraph to the extent any are directed at DAI.

DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

71. DAI denies any allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

72. DAI denies any allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

73. DAI denies any allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief

about the truth of the allegations in this paragraph directed towards others and therefore denies those allegations.

74. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies those allegations.

75. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies those allegations.

76. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies those allegations.

77. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies those allegations.

78. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies those allegations.

79. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies those allegations.

80. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies those allegations.

81. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies those allegations.

82. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph regarding the City installing a treatment system and therefore denies those allegations. DAI otherwise denies the allegations in this paragraph.

83. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph regarding sampling the City's water and therefore denies those allegations and denies all other allegations in this paragraph.

84. Denied.

85. This paragraph does not appear to contain any allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in this paragraph and therefore denies those allegations.

86. This paragraph alleges a purported conclusion of law to which no response is required.

87. This paragraph does not appear to contain any allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in this paragraph and therefore denies those allegations.

88. This paragraph does not appear to contain any allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in this paragraph and therefore denies those allegations.

89. This paragraph does not appear to contain any allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in this paragraph and therefore denies those allegations.

90. This paragraph does not appear to contain any allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in this paragraph and therefore denies those allegations.

**COUNT ONE**

91. DAI incorporates by reference its responses to the prior paragraphs of the Complaint as if re-stated herein. DAI further states that Count One is not alleged against DAI.

92. Count One is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

93. Count One is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

94. Count One is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

95. Count One is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

96. Count One is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

97. Count One is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

98. Count One is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

99. Count One is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

100. Count One is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

101. Count One is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

102. Count One is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

103. Count One is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

104. Count One is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

## **COUNT TWO**

105. DAI incorporates by reference its responses to the prior paragraphs of the Complaint as if re-stated herein. DAI further states that Count Two is not alleged against DAI.

106. Count Two is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

107. Count Two is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

108. Count Two is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

109. Count Two is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

110. Count Two is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

111. Count Two is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

112. Count Two is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

113. Count Two is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

114. Count Two is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

115. Count Two is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

**COUNT THREE**

116. DAI incorporates by reference its responses to the prior paragraphs of the Complaint as if re-stated herein. DAI further states that Count Three is not alleged against DAI.

117. Count Three is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

118. Count Three is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

119. Count Three is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

120. Count Three is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

121. Count Three is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

122. Count Three is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

123. Count Three is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

124. Count Three is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

125. Count Three is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

126. Count Three is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

127. Count Three is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

128. Count Three is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

129. Count Three is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

130. Count Three is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

131. Count Three is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

132. Count Three is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

133. Count Three is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

134. Count Three is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

#### **COUNT FOUR**

135. DAI incorporates by reference its responses to the prior paragraphs of the Complaint as if re-stated herein. DAI further states that Count Four is not alleged against DAI.

136. Count Four is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

137. Count Four is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

138. Count Four is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

139. Count Four is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

140. Count Four is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

141. Count Four is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

142. Count Four is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

143. Count Four is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

### **CLASS ALLEGATIONS**

144. DAI incorporates by reference its responses to the prior paragraphs of the Complaint as if re-stated herein.

145. The first sentence of this paragraph does not require a response. DAI denies the remainder of this paragraph.

146. Denied.

147. This paragraph sets forth legal conclusions that do not require a response from DAI, although DAI denies that class treatment is appropriate.

148. This paragraph sets forth legal conclusions that do not require a response from DAI, although DAI denies that class treatment is appropriate.

149. This paragraph sets forth legal conclusions that do not require a response from DAI, although DAI denies that class treatment is appropriate.

150. Denied.

151. Denied.

152. Denied.

153. Denied.

154. Denied.

155. Denied, including all subparts.

156. Denied.

157. Denied.

158. Denied.

159. Denied.

160. Denied.

**COUNT FIVE**

161. DAI incorporates by reference its responses to the prior paragraphs of the Complaint as if re-stated herein.

162. Denied.

163. Denied.

164. Denied.

165. This paragraph does not contain allegations against DAI. Denied to the extent construed against DAI.

166. This paragraph does not contain allegations against DAI. Denied to the extent construed against DAI.

167. This paragraph does not contain allegations against DAI. Denied to the extent construed against DAI.

168. Denied as to DAI.

169. Denied as to DAI.

**COUNT SIX**

170. DAI incorporates by reference its responses to the prior paragraphs of the Complaint as if re-stated herein. DAI further states that Count Six is not alleged against DAI.

171. Count Six is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

172. Count Six is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

173. Count Six is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

174. Count Six is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

175. Count Six is not alleged against DAI; therefore, this paragraph does not require a response. DAI denies any allegations to the extent they could be construed against DAI.

**COUNT SEVEN**

176. DAI incorporates by reference its responses to the prior paragraphs of the Complaint as if re-stated herein.

177. Denied.

178. Denied.

179. Denied.

180. Denied.

181. This paragraph does not contain allegations against DAI. Denied to the extent construed against DAI.

182. This paragraph does not contain allegations against DAI. Denied to the extent construed against DAI.

183. This paragraph does not contain allegations against DAI. Denied to the extent construed against DAI.

184. Denied as to DAI.

185. Denied as to DAI.

186. Denied as to DAI.

**COUNT EIGHT**

187. DAI incorporates by reference its responses to the prior paragraphs of the Complaint as if re-stated herein.

188. Denied as to DAI.

189. Denied as to DAI.

190. Denied as to DAI.

191. Denied as to DAI.

192. Denied as to DAI.

193. Denied.

194. Denied.

**COUNT NINE**

195. DAI incorporates by reference its responses to the prior paragraphs of the Complaint as if re-stated herein.

196. DAI lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph and therefore denies those allegations. DAI denies any allegations in this paragraph to the extent construed against DAI.

197. Denied.

198. This paragraph does not contain allegations against DAI. DAI denies any allegations in this paragraph to the extent any are directed at DAI.

199. Denied as to DAI.

200. Denied as to DAI.

201. Denied as to DAI.

202. Denied.

203. Denied.

204. Denied.

**COUNT TEN**

205. DAI incorporates by reference its responses to the prior paragraphs of the Complaint as if re-stated herein.

206. DAI denies any factual allegations alleged against DAI in this paragraph. DAI lacks knowledge or information sufficient to form a belief about the truth of any allegations in this paragraph directed towards others and therefore denies those allegations. Any legal conclusions alleged in this paragraph do not require a response.

207. DAI denies any factual allegations alleged against DAI in this paragraph and denies Plaintiffs are entitled to any relief from DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of any allegations in this paragraph directed towards others and therefore denies those allegations. Any legal conclusions alleged in this paragraph do not require a response.

208. DAI denies any factual allegations alleged against DAI in this paragraph and denies Plaintiffs are entitled to any relief from DAI. DAI lacks knowledge or information sufficient to form a belief about the truth of any allegations in this paragraph directed towards others and therefore denies those

allegations. Any legal conclusions alleged in this paragraph do not require a response.

209. DAI denies Plaintiffs are entitled to any relief from DAI.

210. Denied.

In response to the unnumbered paragraph entitled “RELIEF REQUESTED,” DAI denies Plaintiffs are entitled to any relief from DAI.

WHEREFORE, DAI requests that the claims against DAI be dismissed with prejudice, and costs and fees be taxed against Plaintiffs.

**DAI denies any and all material allegations in the Complaint that require a response from DAI and have not been expressly admitted herein.**

**DEFENSES**

DAI asserts the following defenses:

**FIRST DEFENSE**

DAI denies the material allegations of the Complaint and demands strict proof thereof.

SECOND DEFENSE

The Complaint fails to state a claim upon which relief can be granted against DAI.

THIRD DEFENSE

DAI asserts that it is not guilty of the matters and things alleged in the Complaint.

FOURTH DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the applicable statutes of limitations, statutes of repose (including but not limited to O.C.G.A. § 51-1-11), rules of repose, res judicata, collateral estoppel, accord and satisfaction, consent, license, permit, acquiescence, release, laches, waiver, unclean hands, and/or estoppel.

FIFTH DEFENSE

Plaintiffs' claims are barred in whole or in part because DAI's conduct was in accordance with the applicable standards of care under all laws, regulations, industry practice, and state-of-the-art knowledge, and the activities of DAI in accordance with such standards were reasonable as a matter of law. DAI at all times acted reasonably, in good faith, and with the skill, prudence, and diligence of others in the industry at the time.

SIXTH DEFENSE

DAI asserts that Plaintiffs' alleged damages are the result of one or more independent, superseding, and/or intervening causes.

SEVENTH DEFENSE

DAI asserts that there is no causal relationship between its alleged actions or conduct and plaintiffs' alleged damages. Plaintiffs' damages, if any, were caused solely by the actions, omissions, or conduct of persons and/or entities for whom or which DAI is not responsible and/or were caused by acts, omissions, conduct, and/or factors beyond the control of DAI.

EIGHTH DEFENSE

DAI asserts that Plaintiffs' claim for punitive damages is violative of provisions of the United States Constitution and the Georgia Constitution. Plaintiffs' claim for punitive damages is subject to the limitations cap, and the substantive and legal protections, contained in O.C.G.A. § 51-12-1, *et seq.*

NINTH DEFENSE

Plaintiffs' claims are preempted, in whole or in part, by the applicable federal statutes and regulations pursuant to the Supremacy Clause of the United States Constitution.

TENTH DEFENSE

An award of punitive damages in this case would violate the Fourth, Fifth, Sixth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States as well as provisions of the Georgia Constitution, on the following separate and several grounds:

- (a) that civil procedures pursuant to which punitive damages are awarded may result wrongfully in a punishment by a punitive damages award after the fact;
- (b) that civil procedures pursuant to which punitive damages are awarded may result in the award of joint and several judgments against multiple defendants for different alleged acts of wrongdoing;
- (c) that civil procedures pursuant to which punitive damages are awarded fail to provide means for awarding separate judgments against alleged joint tortfeasors;
- (d) that civil procedures pursuant to which punitive damages are awarded fail to provide a limit on the amount of the award against the defendants;
- (e) that civil procedures pursuant to which punitive damages are awarded fail to provide specific standards for the amount of the award of punitive damages;

- (f) that civil procedures pursuant to which punitive damages are awarded fail to provide specific standards for the award of punitive damages;
- (g) that civil procedures pursuant to which punitive damages are awarded permit the award of punitive damages upon satisfaction of a standard of proof less than that applicable to the imposition of criminal sanctions;
- (h) that civil procedures pursuant to which punitive damages are awarded permit multiple awards of punitive damages for the same alleged act;
- (i) that civil procedures pursuant to which punitive damages are awarded fail to provide a clear, consistent appellate standard of review of an award of punitive damages;
- (j) that civil procedures pursuant to which punitive damages are awarded permit the admission of evidence relative to the punitive damages in the same proceeding during which liability and compensatory damages are determined;
- (k) that standards of conduct upon which punitive damages are awarded are vague;
- (l) that civil procedures pursuant to which punitive damages are awarded permit the imposition of excessive fines;
- (m) that civil procedures pursuant to which punitive damages are awarded permit the award of punitive damages upon satisfaction of a standard of

proof which is not heightened in relation to the standard of proof for ordinary civil cases;

(n) that civil procedures pursuant to which punitive damages are awarded permit the imposition of arbitrary, capricious or oppressive penalties;

(o) that civil procedures pursuant to which punitive damages are awarded fail to limit the discretion of the jury in the award of punitive damages.

**ELEVENTH DEFENSE**

Plaintiffs have failed to mitigate their damages, if any.

**TWELFTH DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the prior nuisance doctrine.

**THIRTEENTH DEFENSE**

Each plaintiff's recovery, if any, should be barred or reduced in proportion to each plaintiff's own culpable conduct, including each plaintiff's own negligence, assumption of the risk, acquiescence, or misuse.

**FOURTEENTH DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by their own contributory negligence.

**FIFTEENTH DEFENSE**

Plaintiffs' claims are barred due to the failure to join indispensable parties (under Fed. R. Civ. P. 19) and real-parties-in-interest (under Fed. R. Civ. P. 17).

**SIXTEENTH DEFENSE**

Plaintiffs' claimed damages are speculative, remote, and not reasonably foreseeable.

**SEVENTEENTH DEFENSE**

DAI denies that its conduct was in any manner negligent or wanton.

**EIGHTEENTH DEFENSE**

DAI denies that it or any of its agents or employees breached any duty or obligation allegedly owed to Plaintiffs.

**NINETEENTH DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the doctrine of comparative fault, and to the extent that any other Defendant has settled or may in the future settle with Plaintiffs, DAI asserts its entitlement to an appropriate credit, setoff, or reduction of any judgment against it.

**TWENTIETH DEFENSE**

Plaintiffs' claim for attorney's fees fails because there is no contractual, statutory, or other basis for an award of attorney's fees in this lawsuit against DAI.

DAI further did not act in a manner that gives rise to a claim for attorneys' fees or expenses in this lawsuit.

**TWENTY-FIRST DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the doctrine of prescription.

**TWENTY-SECOND DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by lack of standing.

**TWENTY-THIRD DEFENSE**

Plaintiffs have suffered no legally compensable present injury.

**TWENTY-FOURTH DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the Public Services Doctrine.

**TWENTY-FIFTH DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the doctrines of consent and/or release.

**TWENTY-SIXTH DEFENSE**

Plaintiffs' claims fail as improper collateral attacks on properly issued permits.

**TWENTY-SEVENTH DEFENSE**

Plaintiffs' claims are barred in whole or in part because the harm is divisible and attributable to others.

**TWENTY-EIGHTH DEFENSE**

Plaintiffs should be required to provide a more definite statement of their allegations as to each defendant. As currently pled, plaintiffs' Complaint violates the group pleading doctrine.

**TWENTY-NINTH DEFENSE**

Plaintiffs have not suffered a concrete and particularized injury.

**THIRTIETH DEFENSE**

DAI materially complied with all applicable federal, state, and local permitting requirements, regulations, standards, and guidelines.

**THIRTY-FIRST DEFENSE**

Any alleged injury or harm was not foreseeable.

**THIRTY-SECOND DEFENSE**

The requested injunctive relief would subject DAI to a grossly disproportionate hardship. The requested injunctive relief would result in unlawful interference with transportation and commerce in the waters of the U.S. Plaintiffs

are not entitled to any injunctive or equitable relief against DAI as Plaintiffs have an adequate remedy at law.

THIRTY-THIRD DEFENSE

Plaintiff's claims are barred by the Economic Loss Doctrine.

THIRTY-FOURTH DEFENSE

DAI did not owe or breach any duty to Plaintiffs.

THIRTY-FIFTH DEFENSE

The proximate cause of any injury to Plaintiffs was an event or incident which was not legally foreseeable by DAI, and therefore DAI has no legal liability for any of Plaintiffs' alleged damages.

THIRTY-SIXTH DEFENSE

Plaintiffs' nuisance claims fail against DAI because DAI did not have any control over any of the conduct or cause of harm for which Plaintiffs claims to be a nuisance.

THIRTY-SEVENTH DEFENSE

Plaintiffs' claims are barred by the bulk supplier and sophisticated user doctrines.

THIRTY-EIGHTH DEFENSE

Plaintiffs' claims are barred in whole or in part to the extent they seek to impose liability based on retroactive application of laws, regulations, standards, or guidelines.

THIRTY-NINTH DEFENSE

Any recovery by Plaintiffs may be barred or reduced by the negligence, fault, or carelessness of others for whose conduct DAI is not responsible. Any judgment rendered against DAI in this action, under all theories of liability plead, must be limited to the fault, if any, attributable to DAI. DAI is entitled to apportion its fault, if any, to the fault of any and all other persons or entities who are or could be responsible for any of Plaintiffs' injuries or damages, regardless of whether such persons or entities are or could have been parties to this action, and regardless of whether Plaintiff was negligent. *See, e.g.*, Ga. Code Ann. § 51-12-33.

FORTIETH DEFENSE

DAI may be entitled to a set-off in the event Plaintiffs received or receive payment from any source relating to the facts and circumstances at issue in this lawsuit.

FORTY-FIRST DEFENSE

DAI did not have any duty to warn. Any such duty, if it existed, was either not necessary or was satisfied, discharged, or unnecessary due to the knowledge of risk by others, including Plaintiffs. The lack of or alleged inadequacy of any warnings were also not a proximate cause of any of Plaintiffs' injuries.

FORTY-SECOND DEFENSE

Plaintiffs' claims are barred, in whole or in part, because they have come to the alleged nuisance.

FORTY-THIRD DEFENSE

DAI denies that the requirements of Rule 23 for a litigation class have been met and demands strict proof thereof.

FORTY-FOURTH DEFENSE

Plaintiffs' public nuisance claim fails because Plaintiffs did not suffer or incur any special damage or special harm. Plaintiffs have not suffered or incurred any damage or harm different from those exercising the right common to the general public that is the subject of the alleged interference.

**FORTY-FIFTH DEFENSE**

Plaintiffs nuisance claim fails against DAI because DAI did not create, cause, continue, or maintain the alleged nuisance or otherwise have control over the cause of alleged harm.

**FORTY-SIXTH DEFENSE**

DAI hereby adopts and incorporates the affirmative defenses set forth by its co-defendants in this case.

**RIGHT TO ASSERT ADDITIONAL DEFENSES**

DAI reserves the right to assert additional defenses based upon information learned during the course of this litigation and/or through discovery in this action.

[Signature on Following Page]

Dated: April 21, 2022

*/s/ William E. Underwood*

---

William E. Underwood, Ga. Bar No. 401805  
JONES WALKER LLP  
1360 Peachtree Street  
Suite 1030  
Atlanta, GA 30309  
Telephone: (770) 870-7506  
Email: [wunderwood@joneswalker.com](mailto:wunderwood@joneswalker.com)

Steven F. Casey, Pro Hac Vice  
Kary Bryant Wolfe, Pro Hac Vice  
JONES WALKER LLP  
420 20th Street North, Suite 1100  
Birmingham, AL 35203  
Telephone: (205) 244-5200  
Email: [scasey@joneswalker.com](mailto:scasey@joneswalker.com)  
Email: [kwolfe@joneswalker.com](mailto:kwolfe@joneswalker.com)

Theodore M. Grossman, Pro Hac Vice  
JONES DAY  
250 Vesey Street  
New York, NY 10281  
Telephone: (212) 326-3480  
Email: [tgrossman@jonesday.com](mailto:tgrossman@jonesday.com)

Richard H. Deane, Jr., Ga. Bar No. 214875  
Jeffrey A. Kaplan, Jr., Ga. Bar No. 859280  
JONES DAY  
1221 Peachtree St., N.E., Suite 400  
Atlanta, GA 30361  
Telephone: (404) 521-3939  
Email: [rhdeane@JonesDay.com](mailto:rhdeane@JonesDay.com)  
Email: [jkaplan@jonesday.com](mailto:jkaplan@jonesday.com)

Christopher L. Yeilding, Pro Hac Vice  
Balch & Bingham LLP  
1901 Sixth Avenue North, Suite 1500  
Birmingham, AL 35203-4642  
Telephone (205) 226-8728  
Email: [cyeilding@balch.com](mailto:cyeilding@balch.com)

**Counsel for Defendant Daikin America,  
Inc.**

**CERTIFICATE UNDER L.R. 7.1.D.**

Pursuant to Northern District of Georgia Civil Local Rule 7.1.D., the undersigned counsel certifies that the foregoing filing is a computer document and was prepared in Times New Roman 14-point font, as mandated in Local Rule 5.1.C.

/s/ William E. Underwood

William E. Underwood, Ga. Bar No. 401805

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on April 21, 2022, I electronically filed the foregoing DAIKIN AMERICA, INC.'S ANSWER TO FIRST AMENDED COMPLAINT with the Clerk of Court by using the CM/ECF system, which has notified all counsel of record.

/s/ William E. Underwood

William E. Underwood, Ga. Bar No. 401805